

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Confirmation No. 9217

Ahmet Alpdemir

Art Unit: 2654

Appl. No. 09/818,258

Examiner: Armstrong, Angela A

Filed: March 26, 2001

Atty. Docket No.: 2222.4340002

For: **VOICE-INTERACTIVE
MARKETPLACE PROVIDING TIME
AND MONEY SAVING BENEFITS
AND REAL-TIME PROMOTION
PUBLISHING AND FEEDBACK**

**Petition Under 37 C.F.R. § 1.78(a)(3) to Have Late Filed Benefit Claim
Accepted**

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Mail Stop Petition

Sir:

Applicant hereby petitions to have a late-filed benefit claim of the above-captioned (now abandoned) application accepted¹. Accompanying this Petition is the Petition Fee under 37 C.F.R. §1.17(t) as provided in an Online Credit Card Payment Authorization. This Petition is required to correct the priority claim made in the "Related Applications" paragraph of the subject abandoned application by a previous Assignee's previous patent counsel, which priority claim does not appear to comply with 37 C.F.R. § 1.78(a)(2)(i) and M.P.E.P. § 201.11(III)(A)-(C).²

¹ As found on the USPTO Q and A at <http://www.uspto.gov/patents/law/aipa/18month/18monthfaq.jsp#cx> CX14. Can applicant add a benefit claim of a prior-filed non-provisional application in a later-filed copending application that has been abandoned without filing a petition to revive the later-filed application? (added 4Feb2005) Yes, a petition to revive the later-filed application is not required when applicant is adding a benefit claim by filing an amendment (or an application data sheet) to add the specific reference of the prior-filed non-provisional application. A petition under 37 CFR 1.78(a)(3), however, is required if the later-filed application is a utility or plant application filed on or after November 29, 2000. If the later-filed application is a utility or plant application filed before November 29, 2000, a petition under 37 CFR 1.182 is required.

² Applicant previously filed a Petition on September 11, 2009 in U.S. Appl. No. 10/177,796 to correct priority to, *inter alia*, the instant abandoned application in the '796 application. Senior Petitions Attorney Douglas I. Wood, in the Decision of November 30, 2009 dismissing the Petition, noted Applicant needed

The previous Assignee's previous patent counsel filed the subject application on March 26, 2001. The "Related Applications" paragraph of the specification stated:

This application claims the benefit of priority to U.S. Utility Application Serial No. 09/534,700 filed 24 March 2000; and to U.S. Provisional Application Serial No. 60/219,079 filed 18 July 2000; each of which applications are herewith incorporated by reference.

Priority to these filings was also indicated in the transmittal form ("transmittal") filed together with the subject application on March 26, 2001.

On August 8, 2001, the previous Assignee's previous patent counsel filed a signed Declaration ("Declaration") in response to a May 7, 2001 Notice to File Missing Parts. The Declaration likewise claims priority to Application No. 09/534,700 and to the 60/219,079 provisional.

Upon review of the instant application by current patent counsel for a new Assignee, it was discovered that the priority claim may be seen as being defective because the benefit claim made in the specification, the Declaration, and the transmittal failed to indicate the relationship (i.e., continuation, divisional, continuation-in-part, etc.) between the applications in either the specification or in the declarations, as no Application Data Sheet was filed, per M.P.E.P. § 201.11(III)(A)-(C).

The amended benefit claim, for which Applicant is submitting separate Pleadings subsequent to or concurrently with this Petition, is requested to state:

This application is a non-provisional of U.S. Provisional Patent Application No. 60/219,079, filed July 18, 2000 and

to petition to correct the priority claim in the instant abandoned application before being able to petition to correct the priority claim in the '796 Application.

is also a continuation-in-part of U.S. Patent Application No. 09/534,700, filed March 24, 2000, now U.S. Patent No. 6,658,389, each of which applications are incorporated by reference herein in their entireties.

Therefore, to correct the error in the late filing of the claim for priority, Applicant hereby petitions to file an Application Data Sheet ("ADS") in accordance with 35 U.S.C. § 120 and 37 C.F.R. § 1.78(a)(2)(i) including the above corrected statement.

The entire delay between the date the claim was due under 37 C.F.R. § 1.78(a)(2), July 26, 2001, and the date of this Petition was unintentional.

The U.S. Patent and Trademark Office is hereby authorized to charge any additional fees, including the fee for Petition under 37 C.F.R. § 1.17(t), if necessary, to our Deposit Account No. 19-0036.

Respectfully submitted,

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